

**CHAPTER 4 MASTER-METERED APARTMENT BUILDINGS**

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**400 PURPOSE AND APPLICABILITY**

- 400.1 The purpose of this chapter shall be to establish procedures to prohibit termination of electric and gas utility services to master-metered apartment buildings.
- 400.2 Tenants shall be provided the opportunity to take on prospective financial responsibility for the utility services pursuant to the provisions of this chapter. In addition, tenants and utilities may petition the Superior Court of the District of Columbia for the appointment of a receiver.
- 400.3 This chapter shall apply to all electric and gas utilities under the jurisdiction of the Public Service Commission that supply services to master-metered apartment buildings and have actual or constructive knowledge that the tenants of the apartment house are not persons to whom the utility sends its bills.
- 400.4 The utility shall be considered to have constructive knowledge whenever a single original bill is sent for a particular utility service supplied to an entire apartment house. The mailing of duplicate copies of the original bill shall not negate this single bill status.

**AUTHORITY:** Unless otherwise noted, the authority for this chapter is §8 of the Prohibition of Electric and Gas Utility Service Terminations to Master-Metered Apartment Buildings Act of 1980, D.C. Law 3-94, D.C. Code §43-547 (1981 Ed.).

**SOURCE:** Final Rulemaking published at 28 DCR 3329, 3331 (July 24, 1981).

**401 TENANTS' RIGHTS**

- 401.1 A gas or electric utility shall not terminate service to any master-metered apartment building on the basis of non-payment of a delinquent account by the owner, agent, lessor or manager (herein referred to as the "owner") unless that utility provides an opportunity, where practicable, for the tenants to assume prospective financial responsibility for the utility services furnished by receiving service in their own names, either individually or collectively, on the same terms as any other customer and without any liability for the amount due while service was billed directly to the owner.
- 401.2 As used in this section, the terms "where practicable" means when the utility finds either that it is feasible to individually meter each apartment involved or that it is feasible to divide the total utility bill among the tenants in a fair and equitable manner. It shall be "practicable" to offer tenants an opportunity to receive service collectively when there is a group or association of tenants which is willing to accept responsibility for collecting and paying the entire bill.
- 401.3 Any determination made by the utility that the opportunity for a tenant to receive service in his or her own name is not practicable shall be appealable by that tenant to the Public Service Commission within ten (10) working days of the posting of the Statement of Practicability.
- 401.4 The Public Service Commission shall, within five (5) working days from the date of the appeal, make the final determination of whether or not the utility's decision was correct. An appeal shall only be taken by tenants residing in the apartment at the time the notice is posted.

SOURCE: Final Rulemaking published at 28 DCR 3329, 3332 (July 24, 1981).

**402 NOTICE OF TENANTS' RIGHTS AND OPTIONS**

- 402.1 At least twenty-one (21) days prior to terminating service, a utility company shall send, by registered mail, to each tenant whose name is made known to the utility company a Notice of Tenants' Rights and Options. The notice shall also be sent to all tenants by regular mail. The notice shall contain the following:
- (a) A general fact sheet giving the reason for the proposed change in billing, the owner's name, a description of the following options available to tenants for the provision of utility service:
    - (1) Individual metering;
    - (2) Collective payment by a tenant's association;
    - (3) Individual payment based on a fair and equitable allocation of the total bill; and
    - (4) The appointment of a receiver;



- (b) The telephone number and address of the utility, the name of the person or persons handling these matters and an invitation to contact the utility for more information;
  - (c) The date, time and place for a meeting between the tenants and a field representative from the utility to discuss the available alternatives. With respect to this meeting only, a notice shall be sent to the District agency which is authorized to represent citizens in utility matters;
  - (d) The statement that the tenant has the right to deduct all future payments made by the tenant for utility services from rent owed as provided by §3 of D.C. Law 3-94; and
  - (e) A Preliminary Election Card, printed on a postage paid postcard, to be filled out by the tenant indicating the tenant's preference among the following options:
    - (1) Individual metering, if practicable;
    - (2) Collective payment by a tenants' association, if practicable;
    - (3) Individual payment based on a fair and equitable allocation of the total bill; and
    - (4) Appointment of a receiver.
- 402.2 For the purposes of §402.1(a)(3), the utility company shall state its proposal for a fair and equitable division of the utility bill and the proposed percentage to be paid by each tenant.
- 402.3 For the purposes of §402.1(e)(1), the individual metering option shall clearly state the following:
- (a) This option is only a possibility if sixty percent (60%) of the tenants in the master-metered building indicate a preliminary interest and if the utility company finds that it is practicable to individually meter the building; and
  - (b) The tenant may abandon the individual meter selection within ten (10) days after reviewing the detailed Statement of Practicability which is prepared by the utility company.
- 402.4 The postcard required by §402.1(e) shall also contain the advisory note that failure to return the postcard by a stated date, which shall be not less than ten (10) days from the date the postcard is mailed, shall mean that the tenant does not wish to receive service in his or her own name and desires the appointment of a receiver.
- 402.5 The Notice of Tenants' Rights and Options shall be submitted to the Public Service Commission for its approval prior to distribution to tenants. A copy of the Notice of Tenants' Rights and Options shall also be published in a newspaper of general circulation on the day that the notices are mailed to the tenants and be

prominently displayed in an area of the apartment house which is readily accessible to all tenants.

SOURCE: Final Rulemaking published at 28 DCR 3329, 3333 (July 24, 1981).

#### **403 STATEMENT OF PRACTICABILITY**

403.1 The utility company shall prepare and submit to the Public Service Commission a Statement of Practicability for Individual Metering for any master-metered apartment house for which termination of service is sought and for which at least sixty percent (60%) of the tenants have indicated an interest in the individual metering option on their Preliminary Election Sheets.

403.2 The Statement of Practicability shall contain the following information:

- (a) The address of the apartment house;
- (b) The name of the owner;
- (c) The number of units;
- (d) Whether the entire apartment house can be individually metered;
- (e) Whether it is feasible to individually meter less than the entire apartment house;
- (f) The total cost of individual metering for the apartment house, the proposed cost to each tenant of individual metering, and the basis for the determination of both of these costs;
- (g) If individual metering is not possible, whether the apartment house can be sub-metered and, if so, how (e.g. by floor, by groups of units, etc.);
- (h) The total cost of sub-metering and the proposed cost to each tenant; and
- (i) Any special considerations pertaining to the apartment house and its service which may have a bearing on the utility's decision on practicability.

SOURCE: Final Rulemaking published at 28 DCR 3329, 3334 (July 24, 1981).

#### **404 [RESERVED]**

#### **405 NOTICE OF OPTION SELECTED**

405.1 After the utility has received all of the tenants' Preliminary Election Postcards or after the expiration of the ten (10) day waiting period (whichever comes first), the utility shall advise all tenants of the option selected by the majority of the tenants for payment of utility service to the building.



- 405.2 If no option is selected by a majority, the option selected by a plurality of the tenants shall prevail.
- 405.3 Any option selected shall be practicable under this chapter.
- 405.4 If the utility company does not find the selected option to be practicable, it shall state its reasons in the notice and advise the tenants of their right to appeal the decision to the Commission within ten (10) working days.
- 405.5 Where sixty percent (60%) or more of the tenants have elected the individual metering option, the utility company shall immediately begin, at its own expense, the preparation of a Statement of Practicability for the master-metered building in question.
- 405.6 When the Statement of Practicability has been prepared, the utility company shall send to each tenant in the building a notice detailing the following information:
- (a) The determination made by the utility company whether it is practicable to offer tenants the opportunity to assume prospective service in their own name, the basis of that determination, and the nature of the service which could be offered. If the utility company has determined that the installation of individual meters is feasible, the notice shall include the condition that individual metering shall only be available if within ten (10) days from the delivery of this Statement of Practicability, all of the tenants elect to have individual meters installed;
  - (b) The cost to the tenant of installing an individual meter, if feasible, and the basis of the cost determination; and
  - (c) The tenant's right to appeal the utility company's determination of practicability to the Public Service Commission.
- 405.7 The notice shall first be approved by the Public Service Commission and shall be sent by registered mail or hand-delivered to each apartment unit where a tenant's name is known. The notice shall also be sent to all tenants by regular mail and published in a newspaper of general circulation in the District of Columbia.

SOURCE: Final Rulemaking published at 28 DCR 3329, 3335 (July 24, 1981).

#### **406 TENANT PAYMENT OF UTILITY BILL**

- 406.1 Tenants who elect to have their units individually metered at their own expense consistent with §407 and tenants who elect to receive service in their own name pursuant to the utility's fair and equitable share proposal shall pay their utility costs directly to the utility company.
- 406.2 If a tenant who has agreed to accept responsibility for payment of his or her utility costs later defaults on the payment of his or her utility bill, the utility companies may terminate the service to the individual using the same method as is employed for other consumers.

- 406.3 If a tenant association which has agreed to accept responsibility for payment of the apartment's utility costs later defaults on the payment of the apartment's utility bill, the utility company may move immediately to appoint a receiver and the tenants shall remain individually liable for their fair and equitable share of the utility costs throughout this period.

SOURCE: Final Rulemaking published at 28 DCR 3329, 3336 (July 24, 1981).

#### **407 RESPONSE REQUIRED FROM EVERY TENANT**

- 407.1 In cases where the utility company has indicated that individual metering of less than the entire building is not feasible and all the tenant responses indicated that they wish to receive service in their own name and to have installed at their own expense individual meters, the utility shall make an effort to contact every tenant who has not responded.
- 407.2 This effort pursuant to §407.1 shall include at least two (2) attempts to contact those tenants on the telephone and where both those attempts fail, a field representative shall make a personal visit to the tenant's apartment.
- 407.3 If no contact is made during the visit either with the tenant or any other responsible person on the premises, a field representative shall leave a notice reasonably calculated to be seen by the person residing in the apartment stating that the tenant should contact the utility within three (3) working days if he or she wishes to receive service in his or her own name.
- 407.4 In those instances where it is "practicable" to provide individual meters for the entire building and all tenants have not agreed to accept service by individual meters in their own names within ten (10) days from the delivery of the Statement of Practicability the individual meter option shall be revoked. Tenants may still receive service in their own name individually under the utility's fair and equitable share proposal, as approved by the Commission.

SOURCE: Final Rulemaking published at 28 DCR 3329, 3337 (July 24, 1981).

#### **408 PETITIONS FOR APPOINTMENT OF RECEIVER**

- 408.1 If less than all of the tenants have elected to receive service in their own names, the utility shall have the right to petition the Superior Court for the appointment of a receiver for those tenants who decline to receive service in their own names.
- 408.2 If it is not practicable for tenants to receive service in their own names, or if tenants elect not to receive service in their own names, or if tenants fail to respond to the Notice of Tenants Rights and Options, the electric or gas utility shall not terminate service to a master-metered apartment building on the basis of non-payment of a delinquent account but the utility or tenants may petition the Superior Court of the District of Columbia for appointment of a receiver of the rents for that apartment house who shall pay the prospective utility bills from the rent collected.



SOURCE: Final Rulemaking published at 28 DCR 3329, 3337-3338 (July 24, 1981).

#### **409 SECURITY DEPOSITS**

- 409.1 The utility shall not require any tenant to make a security deposit or guarantee of payment unless the tenant's prior dealings with the utility are such that a security deposit or guarantee of payment would be required under §307 of chapter 3 of this title.

SOURCE: Final Rulemaking published at 28 DCR 3329, 3337 (July 24, 1981).

#### **410 NOTICE OF UTILITY CHARGE PAID BY TENANT**

- 410.1 The utility company shall submit to the owner a monthly listing of the utility charges made by those tenants who have elected to receive service in their own name. The tenant shall be authorized to reduce his or her rent payment to the owner by an amount equal to the utility charge. The owner shall have no recourse for collecting the amount of rent so reduced from the tenant.

SOURCE: Final Rulemaking published at 28 DCR 3329, 3337 (July 24, 1981).

#### **411 - 414 [RESERVED]**

#### **415 REQUESTS FOR TERMINATION OF UTILITY SERVICE**

- 415.1 No utility shall terminate service to any master-metered apartment building subject to this chapter at the request of any person, except by §§401 - 410, or at the direction of the Mayor or his or her representative pursuant to §415.3, unless the following conditions are satisfied: owner unless the following conditions are satisfied:

- (a) The Public Service Commission shall find that utility services provided by the utility will be provided by other means with no lapse in service. Before making a finding, the Public Service Commission shall require the owner, agent, lessor, or manager to do the following:
  - (1) Specify the source of the new utility service;
  - (2) Specify the date when the new service will begin; and
  - (3) Show evidence of a legally binding commitment by the new supplier to provide the utility service; or
- (b) The Public Service Commission shall first make a finding that no units within the apartment building are not lawfully occupied by tenants. As a

basis for this finding, the Public Service Commission shall require the following conditions be satisfied:

- (1) A notarized affidavit pursuant to §415.2 executed by the owner, agent, lessor, or manager of the apartment building; and
- (2) No tenant provides evidence which establishes the lawfulness of his or her occupancy; and
- (3) The Commission's staff shall perform an on-site inspection and find that the premises are vacant or unlawfully occupied.

415.2 For the purposes of §415.1(b)(1), the owner or other legally authorized person shall submit to the Commission a notarized statement which shall contain the following information:

- (a) The name and legal authority of the person requesting termination of the utility service;
- (b) The basis of the request for termination of the utility service;
- (c) That no unit is lawfully occupied;
- (d) That discloses the presence of any unlawful occupants, states the nature and term of their occupancy, and presents all available evidence supporting the allegation of unlawful occupancy, including but not limited to, final orders of the Landlord and Tenant Division of the District of Columbia Superior Court or the Rental Accommodations and Conversion Division of the Department of Consumer and Regulatory Affairs;
- (e) That a notice, as approved by the Public Service Commission, has been prominently displayed in an area of the apartment building, which is readily accessible to all tenants informing all tenants with a claim of lawful occupancy to notify the Public Service Commission within ten (10) days of the posting date to establish the nature of their claim to occupancy, and attaches a copy of that notice; and
- (f) That a copy of the notice was served on each occupant of the apartment building no less than ten (10) days prior to the date that utility service is to be terminated.

415.3 Whenever termination of utility service is requested at the direction of the Mayor or his or her representative in an emergency situation, because of imminent threat to life or property, or for other good cause which threatens the public welfare, the Mayor or his or her representative may cause service to be terminated because of the existence of an emergency situation as determined by the Mayor or his or her representative.

415.4 The Mayor or his or her representative shall notify the Public Service Commission of the termination within three (3) days of the termination excluding weekends and legal holidays, pursuant to §§415.2(a)-(d).



- 415.5 If the request to the utility to terminate service is not in writing, the Mayor or his or her representative shall confirm the request in writing three (3) days of the termination excluding weekends and legal holidays.

SOURCE: Final Rulemaking published at 37 DCR 7124 (November 9, 1990) superseding Final Rulemaking published at 28 DCR 3329, 3338 (July 24, 1981).

#### 416 PRESERVATION OF UTILITIES RIGHT OF ACTION

- 416.1 Nothing in this chapter shall be interpreted as preventing the utility from pursuing any other action or remedy at law or equity that it might have against the owner.
- 416.2 No provision in this chapter shall be construed to relieve the owner from liability under a contract for the provision of utility services with a utility company until such time as the Public Service Commission makes a finding to terminate service pursuant to §401.

SOURCE: Final Rulemaking published at 28 DCR 3329, 3339 (July 24, 1981).

#### 417 PRESERVATION OF TENANT'S RIGHT OF ACTION

- 417.1 Nothing in this chapter shall be interpreted as preventing the tenant of the apartment house from pursuing any other action or remedy at law or equity that he or she may have against the owner or company.

SOURCE: Final Rulemaking published at 28 DCR 3329, 3339 (July 24, 1981).

- 418 **[DELETED]** 43 DCR 33 (January 5, 1996), effective January 22, 1996.

#### 419 VIOLATIONS

- 419.1 Any willful or malicious violation of this chapter by any utility or owner shall be punishable by a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than thirty (30) days or both.
- 419.2 Any owner who collects or attempts to collect any rent from any tenant or an apartment house subject to an order appointing a receiver pursuant to §408.2 shall be found, after due notice and a hearing, to be in contempt of court.

SOURCE: Final Rulemaking published at 28 DCR 3329, 3340 (July 24, 1981).

**499 DEFINITIONS**

499.1 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

**Apartment House** - any building or part thereof, not used primarily for transient occupancy, in which there are three (3) or more apartments, each with one (1) or more habitable rooms with kitchen and bathroom facilities exclusively for use of and under the control of the occupant thereof.

**Customer** - a direct purchaser of utility service for use primarily under residential purposes.

**Delinquent Account** - an account that is unpaid twenty-one (21) days or more after the bill is rendered.

**Fair and Equitable** - a *pro rata* division of the monthly utility bill which is based on a stated allocation formula which takes into account as a minimum the number of units, the relative size of the units and the types of equipment using the utility service.

**Master-Metered Apartment Building** - any apartment house where the owner, agent, lessor or manager of the apartment house is billed directly by the utility company for a particular utility service furnished to such apartment house, and such apartment house is occupied by tenants.

**Rent** - any payment designated as rent or any other payment made for the use and occupancy of an apartment in an apartment house.

**Tenant** - any person who holds or possesses a habitation in subordination to the title of the owner of the premises in which such habitation is located, with the consent of the owner.

**SOURCE:** Final Rulemaking published at 28 DCR 3329, 3331 (July 24, 1981).